IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

WEDNESDAY, THE 21ST MARCH 2007 / 30TH PHALGUNA 1928

WP(C).No. 9658 of 2007(Y)

IA 1177/04 IN OS.15/1982 of II ADDL.SUB COURT,TRIVANDRUM

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PETITIONERS:

1. K.NITHYANANDAN, C.P.1/234, CHETTIVILAKOM PANCHAYAT, THIRUVANANTHAPURAM.

2. B.GOURIKUTTY, C.P.1/234, DO. DO.

BY ADV. SRI.M.SASINDRAN
SRI.M.V.BIPIN

RESPONDENTS:

1. K.C.EAPEN, T.C.2/795(1), KURUMTHOTTIKKAL VEEDU, NEAR MEDICAL COLLEGE, PATTOM, THIRUVANANTHAPURAM.

2. T.M.THOMAS(CAPT.),T.C.16/1623, NEAR BAKERY JUNCTION, PALAYAM, VANCHIYOOR VILLAGE, THIRUVANANTHAPURAM.

3. K.SATHYAPRAKASH, THOTTIKKATTU VEEDU KNOWN AS KALLUVILAKATHU VEEDU, MAVARATHALAKONATHU MURI, ULLOOR, THIRUVANANTHAPURAM.

4. APPU, PROPRIETOR, GEEJA ENTERPRISES, NO.1/23, CHETTIVILAKOM PANCHAYATH, THIRUVANANTHAPURAM.

5. THE SUB REGISTRAR, OFFICE OF THE SUB REGISTRAR,PATTOM, THIRUVANANTHAPURAM.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 21/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.P. Balachandran, J.

W.P.(C)No. 9658 of 2007 Y

JUDGMENT

The petitioners are defendants 5 and 6 in O.S. No.15/82 on the file of the II Additional Sub Court, Thiruvananthapuram. The suit was one, filed by respondents 1 and 2, for specific performance of an agreement for sale of immovable properties belonging to respondents 3 and 4. It is submitted that the petitioners were impleaded as Defendants 5 and 6 in the said suit, as they were occupying two rooms in the building situated in the plaint schedule property. The suit was decreed in favour of respondents 1 and 2 by the trial court. The decree of the trial court was reversed in appeal, but, vide Exhibit P1(a) judgment of this Court in A.F.A.No.83/93, the judgment of the first appellate court was reversed and the decree of the trial court was restored. It is submitted by the counsel for the petitioners that the petitioners preferred

a Special Leave Petition before the Honourable Supreme Court challenging Exhibit P1(a) judgment. But, that was dismissed.

2. The contention of the petitioners that they are occupying two rooms in the building situated in the plaint schedule property did not find favour with this Court and it was observed in Exhibit P1 (a) judgment that so far as occupation of the petitioners is concerned, there is nothing to show under what authority the petitioners are occupying the building nor have they produced any document to show their possession. In view of brushing aside the contentions of defendants 5 and 6, who are the petitioners herein, vide Exhibit P1(a) judgment of this Court, the petitioners have no voice in the matter of execution of sale deed by respondents 3 and 4 in favour of respondents 1 and 2, who are the decree holders and it is not upto them to point out any discrepancy in the survey number or any other matter whatsoever, as is contended. Exhibit P6

impugned order, ignoring the objections filed by the petitioners, as evidenced by Exhibit P5 and allowing I.A.No.1177/04, approving the draft sale deed, cannot be found fault with, in the circumstances. This writ petition is, hence, devoid of merit.

In the result, I dismiss this writ petition.

21st March, 2007 (K.P.Balachandran, Judge)

tkv